

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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A. MORRISON TRUCKING, INC.,

Plaintiff,

v.

**ORDER
06 CV 767 (NG)(RLM)**

**TEAMSTERS LOCAL 282, TEAMSTERS
LOCAL 282 WELFARE, PENSION, ANNUITY
JOB TRAINING, AND VACATION SICK
LEAVE TRUST FUNDS,**

Defendants.

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GERSHON, United States District Judge:

Presently before the court is plaintiff's objection, filed March 29, 2006, to Magistrate Judge Roanne L. Mann's decision, filed March 17, 2006, staying discovery in the above action pending the Second Circuit's decision in a related case, *LaBarbera v. A. Morrison, et. al.*, 00 CV 7218 (RLM). Plaintiff requests to have the stay lifted, in order to commence discovery immediately. For the following reasons, plaintiff's request is denied.

First, plaintiff's objection is untimely under Rule 72(a) of the Federal Rules of Civil Procedure, which provides, in relevant part, that "[w]ithin 10 days after being served with a copy of the magistrate judge's order, a party may serve and file objections to the order . . ." As noted above, plaintiff filed its appeal of Judge Mann's order on March 29, 2006, twelve days after the electronic filing of the decision.

Notwithstanding the untimeliness of plaintiff's objection, I decline to second-guess Judge Mann's decision on this non-dispositive pre-trial matter. *See Adams v. Suozzi*, 393 F.Supp.2d 175 (E.D.N.Y. 2005). 28 U.S.C. § 636(b)(1)(A) provides that a district court judge may reconsider a magistrate judge's decision in a pre-trial matter, "where it has been shown that the

magistrate [judge's] order is clearly erroneous or contrary to law.” Judge Mann’s discretionary imposition of a discovery stay until the issuance of the Second Circuit’s decision in a related case, which was also before her, and in which she indicated the issues are intertwined, is neither clearly erroneous nor contrary to law.

Therefore, plaintiff’s objection to Judge Mann’s Order is overruled, and the discovery stay will remain in effect until lifted by Judge Mann.

SO ORDERED.

/s/ *Nina Gershon*
NINA GERSHON
United States District Court

Dated: Brooklyn, New York
April 21, 2006